

IN THE UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF TENNESSEE

AT CHATTANOOGA

UNITED STATES OF AMERICA,

Plaintiff,

v.

REJON TAYLOR,

Defendant.

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1:04-CR-160

Chattanooga, Tennessee  
December 3, 2008

BEFORE: THE HONORABLE CURTIS L. COLLIER,  
CHIEF UNITED STATES DISTRICT JUDGE

APPEARANCES:

FOR THE PLAINTIFF:

STEVEN S. NEFF  
CHRISTOPHER D. POOLE  
Assistant United States Attorney  
1110 Market Street, Suite 301  
Chattanooga, Tennessee 37402

FOR THE DEFENDANT:

WILLIAM H. ORTWEIN  
Post Office Box 38  
Hixson, Tennessee 37343

HOWELL G. CLEMENTS  
1010 Market Street, Suite 401  
Chattanooga, Tennessee 37402

SENTENCING HEARING

UNITED STATES DISTRICT COURT

1 APPEARANCES: (Continuing)

2  
3 FOR THE DEFENDANT:

4 LESLIE A. CORY  
5 FREDERICK L. ORTWEIN  
6 1010 Market Street, Suite 306  
7 Chattanooga, Tennessee 37402

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9  
10 THE COURT: Please call the case.

11 THE CLERK: Criminal Action 1:04-160, United States  
12 of America versus Rejon Taylor.

13 THE COURT: Counsel, please make appearances for the  
14 record.

15 MR. NEFF: Steve Neff and Chris Poole for the United  
16 States, Your Honor.

17 MR. WILLIAM ORTWEIN: Bill Ortwein, Lee Ortwein,  
18 Leslie Cory, and Howell Clements for Defendant Taylor, Your  
19 Honor.

20 THE COURT: Mr. Taylor, would you and Mr. Ortwein  
21 please come to the lectern.

22 (Brief pause.)

23 THE COURT: The Court has set this matter for hearing  
24 this morning for the purpose of imposing sentence in this case.

25 Mr. Ortwein, is Mr. Taylor prepared for sentencing?

1 MR. WILLIAM ORTWEIN: Yes, Your Honor.

2 THE COURT: Is the government prepared for the Court  
3 to impose sentence?

4 MR. NEFF: Yes, Your Honor.

5 THE COURT: After a lengthy and vigorously contested  
6 trial, the jury in the case against Mr. Taylor determined that  
7 the defendant Rejon Taylor should be put to death.

8 Pursuant to the Federal Death Penalty Act, Title 18,  
9 United States Code, Sections 3591 through 3598, the Court is  
10 required to impose that sentence. Defendant was provided an  
11 opportunity for allocution before the jury, and he exercised  
12 that right. And the jury also considered aggravating and  
13 mitigating factors.

14 Accordingly, it is the judgment of the Court on  
15 Counts 1 through 4 that the defendant, Rejon Taylor, be  
16 sentenced to death.

17 Rejon Taylor is hereby committed to the custody of  
18 the United States Attorney General until exhaustion of the  
19 procedures for appeal of the judgment of conviction and for  
20 review of the sentence. When the sentence is to be  
21 implemented, the Attorney General shall release the defendant  
22 to the custody of the United States Marshal, who shall  
23 supervise implementation of the sentence in the manner  
24 prescribed by the law of Tennessee.

25 The sentence shall be executed on a date and at a

1 place designated by the director of the United States Bureau  
2 of Prisons.

3 The defendant shall cooperate in the collection of  
4 DNA, as directed by the probation office.

5 It is further ordered that the defendant shall pay  
6 to the United States a special assessment of \$400, pursuant to  
7 Title 18, United States Code, Section 3013, which shall be due  
8 immediately.

9 The Court finds that because of the particular  
10 circumstances of this case the defendant does not have the  
11 ability to pay a fine, therefore the Court waives the fine in  
12 this case.

13 Mr. Taylor, as I'm quite sure you are aware, you  
14 have the right to appeal both the conviction and also the  
15 sentence. If you would like to appeal your sentence, your  
16 notice of appeal must be filed within ten days. If you cannot  
17 afford counsel to represent you in your appeal, the Court will  
18 appoint counsel to represent you.

19 The law in this area requires that the Court appoint  
20 counsel to represent you. I have received a letter from the  
21 federal public defender for this district, Ms. Elizabeth Ford.  
22 The Court's local Criminal Justice Act plan provides that she  
23 shall make a recommendation to the Court pertaining to  
24 representing you on appeal. And she has recommended that  
25 Ms. Cory represent you on appeal, and also an attorney named

1 Barry J. Fisher, who is out of New York. The Court has not  
2 decided at this point whether to accept that recommendation or  
3 not. I would like to hear from your attorneys and also from  
4 you what your views are with respect to your being represented  
5 by Mr. Fisher and Ms. Cory, and also whether you are agreeable  
6 to your other attorneys withdrawing from your case.

7 Mr. Ortwein?

8 MR. WILLIAM ORTWEIN: First of all, let me say, if it  
9 please the Court, what we recommend to the Court is something a  
10 little bit, obviously, different than what Ms. Ford has  
11 recommended. There was a report—I can't think of the name of  
12 it, but—three or four years ago that recommended that there  
13 be -- well, the law requires two attorneys to be appointed on  
14 appeal, our recollection, one of which, in the report, is to be  
15 an attorney who was not involved in the trial, and the other  
16 attorney to be one who was involved in the trial.

17 Our recommendation to the Court is that the Court  
18 appoint Mr. Paul Cross, who was not involved in the trial, who  
19 is a partner of Mr. Howell Clements, with the law firm of  
20 Clements & Cross, and that the Court appoint either Ms. Leslie  
21 Cory or Mr. Lee Ortwein of the law firm of Ortwein & Cory on  
22 the appeal, either one of those, which would be fine for the  
23 purpose of appeal. And that way there would be one attorney  
24 who was not involved in the trial and one who was. And  
25 obviously Mr. Clements could aid Mr. Cross and Mr. Ortwein

1 Ms. Cory, or vice versa.

2 Let me say to the Court, under those circumstances,  
3 at least, I would be happy to be involved in the appeal on a  
4 pro bono basis. As the Court knows, I'm 68 years old, and I  
5 do have some health problems. However, certainly, having been  
6 lead counsel in this particular trial, I would want to have  
7 some involvement in an appeal, which would be rather difficult  
8 should -- and I can't think -- I've talked to the attorney in  
9 New York, Judge, but I can't think of his last name right now.  
10 He has just been appointed full time the director of the  
11 Federal Death Penalty Resource Counsel in charge of appeals.  
12 I would also point out, though, to the Court that should the  
13 Court appoint Mr. Cross and Ms. Cory or Mr. Ortwein, that his  
14 services are available free of charge to them under the Act,  
15 which establishes the Federal Death Penalty Resource Center  
16 for purposes of the appeal, just as during the trial we had  
17 the aid of Mr. Kevin McNally from said organization, which was  
18 free of charge to the government. But that is our  
19 recommendation. I believe that -- I may be incorrect that  
20 that is what Mr. Taylor likewise would prefer, but that's --  
21 the Court can make inquiry, certainly, of Mr. Taylor in that  
22 regard.

23 THE COURT: Thank you, Mr. Ortwein. I see that  
24 Mr. Cross is in court.

25 Mr. Cross, Title 18, United States Code, Section

1 3005, requires that at least one of the assigned lawyers,  
2 quote, "be learned in the law applicable to capital cases,"  
3 close quote. If you don't mind, within the next few days  
4 could you furnish the Court with a copy of your résumé, with  
5 particular attention to experience in the appeal of capital  
6 cases? The Court will certainly take Mr. Ortwein's  
7 recommendation under advisement. This is something that the  
8 Court will do, but the Court will not do it today, but the  
9 Court will do it within the next ten days. This is a very  
10 serious matter, and the Court would like to make sure that  
11 Mr. Taylor receives the best representation that is available  
12 on appeal.

13 MR. CROSS: Yes, sir.

14 THE COURT: Okay. Mr. --

15 MR. WILLIAM ORTWEIN: Your Honor --

16 THE COURT: I'm sorry, Mr. Ortwein. Go on.

17 MR. WILLIAM ORTWEIN: Let me just emphasize once  
18 again that I personally will be involved on a pro bono basis,  
19 under our recommendation, or even should Your Honor make an  
20 appointment the other way. Probably less the other way. But  
21 certainly I will -- am offering my services free, or  
22 involvement free, in this particular matter, for whatever value  
23 they may be.

24 THE COURT: Mr. Taylor, you just heard the Court  
25 inquire of Mr. Ortwein as to what his position was on the

1 recommendation the Court has received from the head of the  
2 local Federal Defender's office. As I indicated, that person  
3 has recommended that Ms. Cory stay on as one of your attorneys  
4 in the appeal and that Mr. Fisher, Mr. Barry Fisher, be your  
5 lead appellate counsel. I assume that you've had a chance to  
6 speak to Ms. Cory, Mr. Ortwein, and perhaps others about that  
7 recommendation, and the Court would like to hear from you what  
8 your views are and what your wishes are. Obviously the Court  
9 has an independent obligation, so the Court will not  
10 necessarily acquiesce in your wishes, but the Court would like  
11 to hear your wishes so the Court can take them into  
12 consideration.

13 THE DEFENDANT: I agree with Mr. Ortwein, his  
14 position on it.

15 THE COURT: Okay. So you don't have a preference for  
16 Ms. Cory or Mr. Lee Ortwein?

17 THE DEFENDANT: I thought they was in the same law  
18 office. So...

19 MR. WILLIAM ORTWEIN: Doesn't matter. Just whatever  
20 you think. Don't worry about hurting somebody's feelings  
21 because they've been involved in your representation. If you  
22 have a preference between the two, just tell the Court. You  
23 won't hurt anybody's feelings.

24 THE DEFENDANT: Yeah. Leslie Cory.

25 THE COURT: Okay. I'm not making a definite



1 commitment at this point, but I think I'm likely to appoint  
2 Ms. Cory, then, as one of the attorneys.

3 THE DEFENDANT: Okay.

4 THE COURT: Okay?

5 Mr. Ortwein, is there anything further the Court  
6 must do this morning?

7 MR. WILLIAM ORTWEIN: Yes, sir. I want to enter an  
8 objection, although Mr. Taylor was offered to -- made an  
9 allocution to the jury, that the Court did not offer him the  
10 right to make allocution before the Court sentenced him. I  
11 just want to note that for the record, Your Honor.

12 THE COURT: Okay. As I understand the motions that  
13 were filed during the trial, the argument was made by  
14 Mr. Taylor that since the jury stood in the place of the Court  
15 and in a normal sentencing the defendant has the right of  
16 allocution in front of the Court, that that right should extend  
17 to the jury, since the jury was making the decision. And  
18 although the law was not all that clear on that point, the  
19 Court granted Mr. Taylor that right, and he took advantage of  
20 it, and he spoke for about, oh, 20 to 30 minutes or so to the  
21 jury, not under oath, not subject to cross-examination.

22 I don't know of any argument that was made at that  
23 time that in addition to that allocution the defendant would  
24 also have a right to a separate allocution in front of the  
25 Court. I'm not sure that any cases have discussed that. As I

1 said, the law was not all that clear with respect to what the  
2 Court did in the first place, but out of an abundance of  
3 caution and to be as fair as possible to Mr. Taylor, the Court  
4 granted that right, which was exercised.

5 Any other objections?

6 MR. WILLIAM ORTWEIN: No, Your Honor.

7 THE COURT: Any objections by the government?

8 MR. NEFF: No, Your Honor. I would want to point out  
9 that we spoke with Ms. Belcher yesterday morning. She was  
10 planning on coming. I don't know if the Court had intended on  
11 allowing her to say anything. But she got sick last night and  
12 was unable to come. So in case the Court were to ask us if we  
13 had any possible victims that would want to say something, as  
14 it stands now, we don't.

15 THE COURT: And I understand that the government is  
16 required to prepare the judgment.

17 MR. NEFF: We'll do that today, Your Honor.

18 THE COURT: Okay. If there is nothing further, that  
19 concludes this matter.

20 END OF PROCEEDINGS  
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1           I, Elizabeth B. Coffey, do hereby certify that I  
2 reported in machine shorthand the proceedings in the  
3 above-styled cause, and that this transcript is an accurate  
4 record of said proceedings.

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6  
7           s/Elizabeth B. Coffey  
8           Elizabeth B. Coffey,  
9           Official Court Reporter  
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